IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI

THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT APPEAL No. 1068 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 13/04/2005 in WP No. 1313 OF 2005 on the file of the High Court.)

Between:

Smt.Mahaboob Mastana Begum alias Muntaz Begum, w/o M.A.Gaffor, Muslim, aged about 60 years, r/o Hyderabad.

..... APPELLANT

AND

1. The Government of A.P., rep., by its Secretary, Revenue Department, Secretariat Building, Hyderabad.
2. The Chairman, Zilla Parishad, West Godavari District at Eluru.
3. The Chief Executive Officer, Zilla Parishad, West Godavari District at Eluru.
4. M.N.Anssari, s/o Md.Shabuddin,
H.No.290, Shiridi Sai Colony, Near Mandal Office, Beeramguda, Patancheru (M), Medak District.
5. B.M.Saduruddin, s/o Md.Shabuddin,
H.No.120, Gayathri Hills, Yousufguda, Hyderabad.
6. Md.Ghouse Mohiddin, s/o Md.Shabuddin,
H.No.85/8, Sector-8, Opp:Satya Sai School, M.V.P.Colony, Visakhapatnam.
7. Mahaboob Haseena Begum, w/o Md.Ismail,
H.No.119/A, Gayathri Hills, Hyderabad.
8. Mahaboob Khazima Begum, w/o Md.Aziz,

Shantinagar, North Lallaguda, Secunderabad.
9. Mohd.Naimuddin, s/o Md.Shabuddin,
H.No.217-A, Krishna Apts., Ameerpet Cross Roads, Hyderabad.
10. Mohd.Fhazaluddin, s/o Md.Shabuddin,
M.I.G.Plot No.3031, Phase-2, B.H.E.L., Ramachandrapuram, Medak District.
11. Ahammed Mohiddin Mohammad, s/o Md.Shabuddin,
H.No.(D.No.)531, Gayathri Hills, Hyderabad.
12. Mohd.Moise Kairuddin, s/o Md.Shabuddin,
c/o late Dr.Sultan, H.No.11-1-71, Sultan Street, Pitapuram, East Godavari District.

.....RESPONDENTS

Counsel for the Appellant: SMT.K.SESHARAJYAM

Counsel for the Respondent Nos. 1 to 3: G.P. for Panchayat

Raj & Rural Development.

Counsel for Respondents 4 to 6 & 8 to 12: Mr.V.L.N.G.K. Murthy

Counsel for Respondent No.7: Mr.D.V.Sitarama Murthy.

The Court made the following :

ORAL JUDGMENT:

(per Honourable Sri Bilal Nazki, the Acting Chief Justice)

It appears that certain lease was granted to one Azizunnisa Begum with respect to usufruct of 230 coconut trees and 3 tamarind trees. This lady has 10 children and one of them, Mahaboob Mastana Begum, claimed that her mother by virtue of a Will had transferred the said rights to her. Accordingly, the authorities after a resolution passed an order on 9.4.2002 transferring the lease in favour of Mahaboob Mastana Begum. Other heirs of Azizunnisa Begum complained before the Chief Executive Officer, who passed order on 21.1.2005 holding that all the children of Azizunnisa Begum were entitled to the patta. This was challenged in the writ petition. The learned Single Judge found that the order passed in favour of the petitioner on 9.4.2002 was passed behind the back of other heirs of Azizunnisa Begum. He also found that the order dated: 21.1.2005 has been passed behind the back of the writ petitioner. Therefore, while disposing of the writ petitioner, he directed the 3rd respondent to hear the petitioner and respondents 4 to 12 and pass appropriate

orders after giving the opportunity of being heard.

We have heard learned counsel for parties and we do not find any ground to interfere with the order of the learned Single Judge. But, it is pointed out that in paragraph 7 of the order of the learned Single Judge, the learned Single Judge has observed “Therefore, I do not find any grounds to set aside the order impugned and so the petition is dismissed.” Therefore, Respondent No.3 may be guided by such observation and the enquiry to be held by Respondent No.3 would be an exercise in futility, as the learned Single Judge held that the impugned orders cannot be interfered with and cannot be set aside.

We feel that this observation would create difficulties for the 3rd respondent to decide the matter and in these circumstances, we set aside the orders dated: 9.4.2002 and 21.1.2005 and direct the 3rd respondent to conduct an enquiry and pass appropriate orders. He should not take any observations made by the learned Single Judge while disposing of the writ petition or any observations made by us while disposing of this appeal as an expression of opinion on merits of the respective claims of parties. He shall independently conduct enquiry and pass appropriate orders in accordance with law after hearing parties within a period of three months from the date of the receipt of a copy of this order. Parties can raise all questions of fact or law before the said authority. Till the matter is decided by the said authority, status quo shall be maintained.

The Writ Appeal is accordingly disposed of. No costs.

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BILAL NAZKI, ACJ.

21.6.2005.

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G.CHANDRAIAH, J.

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To

1. The Secretary to Government of A.P., Revenue Department, Secretariat Building, Hyderabad.
2. The Chairman, Zilla Parishad, West Godavari District at Eluru.
3. The Chief Executive Officer, Zilla Parishad, West Godavari District at Eluru.

4. Two CCs to Government Pleader for Panchayat Raj and Rural Development, High Court Buildings, Hyderabad (OUT).

5. 2 CD copies.